

REMARKS

Restriction Requirement

Applicants herein acknowledge the restriction requirement in the above-referenced application. Claims 1-31 are currently pending in the application. The Office has identified the following groups of claims as being drawn to separate inventions:

Group I – claims 1-17, drawn to a stable nonaqueous drug formulation;

Group II – claims 18-24, drawn to a drug delivery device; and

Group III – claims 25-31, drawn to a method for preparing a stable nonaqueous drug formulation.

Applicants hereby elect the claims of Group I, claims 1-17, with traverse. Applicants respectfully traverse the Restriction Requirement traversing under MPEP § 803, as the search and examination of all the claims in the application can be made without serious burden and the examiner can examine the claims on the merits. Although Applicants believe the pending claims relate to a single invention, where the search/examination can be made without serious burden, the Examiner must examine all of the claims, even where the application includes claims to independent or distinct inventions.

The Office has further identified patentably distinct species and has required election of a single combination of drug, polymer, and solvent. Applicants hereby elect the species drawn to omega-interferon (drug), benzyl alcohol (solvent), and polyvinylpyrrolidone (polymer), such as, for example, that described in Formulation A of Example 6 (paragraphs [0043] to [0046]), with traverse. Applicants respectfully traverse on the basis that the office has not demonstrated that the reasons it provides of independence and/or distinctness (see Office Action at pg. 4, lines 1-4) are actually supportive of that finding. Additionally, restriction from all species claimed to just one species is not allowing applicant to claim a reasonable number of species as is provided for in the MPEP 806.04. 37 CFR 1.141 provides that an allowable generic claim may link a

reasonable number of species embraced thereby. Such is the case in the present application.

CONCLUSION

An early Office Action on the merits is respectfully solicited.

Respectfully submitted,



Edgar R. Cataxinos
Registration No. 39,931
Attorney for Applicant(s)
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

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